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wall, and the deed under which the parties to the suit claim, as well as the decree of sale and the decree confirming the sale, describe the property as beginning "at the center of the partition wall between it and the adjoining tenement on the east," a deed of the commissioner, omitting the quoted reference to the point of beginning, did not enlarge the estate of the purchaser, so as to entitle her to the whole wall, in accordance with a call of the deed designating the beginning point as a certain distance from a street.

3. Same—Notice.—The records of the court and the papers in partition proceedings are notice to the purchaser at partition sale of a variance between the description of the property actually subject to the proceedings and the description contained in the commissioner's deed.

4. Party Walls—Presumptions.—Every wall and separation between two buildings is presumed to be a common or party wall, if the contrary be not shown.

[Ed. Note.—For cases in point, see vol. 38, Cent. Dig. Party Walls. §§ 2, 60.]

5. Same—Rights of Proprietors—Increase of Height of Wall.—One owner of a party wall may erect a new building on his lot and carry the party wall up to a height sufficient for his purposes.

6. Same—Rebuilding of Wall—Division of Costs.—Where a party wall is in a state of ruin, so that rebuilding is necessary, one party may compel the other by action to contribute to the expense of rebuilding the wall, but if the new wall is made wider or higher, or if the old wall was sufficient for the purposes for which it was used, the expense of the increased height or width of the wall in the first case, or of the rebuilding of the wall in the second, must be borne by the party at whose instance the work is done.

NORFOLK & W. RY. CO. *v.* BELL.

Feb. 2, 1906.

[52 S. E. 700.]

1. Master and Servant—Duties of Master—Safe Appliances.—The master, in selecting instrumentalities for his work, should keep reasonably abreast with improved methods, and should be reasonably prudent and careful to select appliances reasonably adequate and proper for their respective uses, but is not bound to furnish the best-known appliances or those used by some other employer in the same line of business.

[Ed. Note.—For cases in point, see vol. 34, Cent. Dig. Master and Servant, §§ 181-192.]

2. Same—Negligence of Master—Evidence.—On the issue of the failure of a master to exercise ordinary care to provide reasonably safe appliances, a witness having sufficient knowledge of the subject

may testify to the general practice of masters with reference to similar appliances and the comparative safety of different appliances; but it is not competent to show that the appliances of another master are better than those used by the master whose conduct is being called in question.

[Ed. Note.—For cases in point, see vol. 34, Cent. Dig. Master and Servant, §§ 920-925.]

3. Evidence—Hearsay—Recitals in Papers.—A blue print showing a kind of water gauge, which has indorsed thereon a recital as to the use of the guage by certain companies, and a paper illustrating another gauge and containing a manufacturer's statement detailing the advantages of the gauge, are hearsay on the issue of alleged negligence in failing to use gauges similar to those described.

4. Master and Servant—Actions—Instructions—Sufficiency of Evidence.—In an action against a railroad for injuries to a fireman, there was evidence that defendant had placed a man on the engine to learn how to fire; that, while he was engaged in that work, plaintiff was on the engineer's side of the cab, running the engine in the presence of the engineer; that the engineer was required to instruct the fireman in his duties and to be present when the fireman was running the engine; and that the fireman was required to obey the orders of the engineer. Held, that the evidence authorized a charge that, if plaintiff, as one of the inducements to his employment, was permitted to run the engine so as to learn to be an engineer, it was the duty of defendant to use ordinary care to provide and maintain a reasonably safe place in which plaintiff was to perform such work.

5. Trial—Instructions—Applicability to Evidence.—Instructions should state, not abstract propositions of law, but the law as applicable to the particular facts of the case.

STANDARD OIL CO. *v.* CITY OF FREDERICKSBURG.

March 1, 1906.

[52 S. E. 817.]

1. Licenses—Power to Tax—Constitutional Provisions.—Const. § 117 [Va. Code 1904, p. ccxxxviii], amending existing charters of cities so as to conform to the Constitution; section 168 [p. cclxii], providing that taxes shall be levied and collected under general laws; and section 170, providing that the general assembly may levy license and franchise taxes—do not repeal previously existing special charters of cities which authorize them to levy license taxes, nor require such taxes to be levied solely under a general law.

[Ed. Note.—For cases in point, see vol. 32, Cent. Dig. Licenses, §§ 5, 6.]

2. Commerce—Interstate Commerce—What Constitutes.—A cor-